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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendments of Parts 32, 36, 61, )  
64 and 69 of the Commission's )  
Rules to Establish and Implement )  
Regulatory Procedures for Video )  
Dialtone Service )

RM-8221

**REPLY COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its reply to the comments filed May 21, 1993 in the above-referenced proceeding.

In its comments, USTA noted that the Petition merely restates arguments made by Petitioners in their previous comments filed in CC Docket No. 87-266 and provides no new evidence to justify the initiation of a rulemaking proceeding. USTA stated that the public interest would not be served by granting the Petition, as accepting it would only serve to perpetuate the competitive advantage already enjoyed by cable operators and would delay and/or stop the introduction of video dialtone services to the public. USTA pointed out that the Commission had already considered the issues raised in the Petition and had determined that the record did not support changing the existing regulatory structure for video dialtone. USTA listed the multitude of safeguards which are already in place to guard

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against anticompetitive conduct. Such safeguards render the Petition moot.

Many commenting parties do not support holding any current or future video dialtone Section 214 application in abeyance until new video-specific rules are enacted.<sup>1</sup> In fact, two commenters who support the Petition did not advocate suspending the Section 214 applications.<sup>2</sup> These commenters understand that the continued filing of these applications will allow the Commission to continue to collect much-needed data which will be of enormous value in determining, at some later date, what, if any, rules changes are required.<sup>3</sup> Indeed, the Commission needs far more than four applications to justify the mammoth re-write of all the rules requested in the Petition.<sup>4</sup> It would be premature to institute such an all-encompassing rulemaking when no customer has had the opportunity to purchase and no exchange

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<sup>1</sup>Southern New England Telephone Company (SNET) at p. 4, BellSouth at p. 8 and GTE at p. 9.

<sup>2</sup>National Association of State Utility Consumer Advocates (NASUCA) at p. 2 and AT&T at p. 2. These commenters, as well as the Petitioners, suggest as an alternative that the Commission condition grant of video dialtone applications on the outcome of future rules. As the Fiber Optics Division of the Telecommunications Industry Association (TIA) explains, all applicants must be able to rely on the original grant of authority to establish service in order to proceed with that service offering. Continued regulatory uncertainty, particularly if more onerous rules are expected, will chill any incentive for exchange carriers and others to offer video dialtone service. TIA at p. 6.

<sup>3</sup>TIA at p. 7.

<sup>4</sup>SNET at p. 5.

carrier has had the opportunity to provision video dialtone service.<sup>5</sup> "To hold these applications in abeyance and to decline to accept new applications pending a rulemaking would directly retard the deployment of video dialtone service, thereby depriving the public of many potentially new services for a year or more."<sup>6</sup>

Several commenters recognize that one of the Petitioners, the National Cable Television Association (NCTA), has members who have a direct financial interest in delaying video dialtone. As that commenter points out, the video dialtone applications pending before the Commission "hold the promise of fostering competition in the delivery of video services. Video-on-demand, for example, would compete directly with pay-per-view movie channels and premium cable movie channels offered in most communities exclusively by a monopoly cable television operator."<sup>7</sup> The Commission should not permit such obvious self-interest to prevail by granting the Petition.

The comments also provide compelling evidence that grant of the Petition would harm the public interest. The Edison Media Arts Consortium (Edison) states that "the increase in television

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<sup>5</sup>U S WEST at p. 4.

<sup>6</sup>TIA at p. 7.

<sup>7</sup>World Institute on Disability, the Consumer Interest Research Institute, Henry Geller and Barbara O'Connor (Geller) at p. 4. See, also, NYNEX at p. 5.

channels that advances in technology such as the digital network/telephone line system being proposed by Bell Atlantic would increase exhibition opportunities for independent film and video makers...It seems rational to let the public marketplace decide if this alternative distribution system is viable, fair and truly open and accessible..."<sup>8</sup> The Citizens for a Sound Economy Foundation (CSE Foundation) observes, "To the best of our knowledge, the cable television industry is virtually devoid of competition, which has created a miserable state of affairs for consumers."<sup>9</sup> In addition, Geller views Petitioners' rulemaking request "as a serious threat to the interest of consumers in accessing broadband multi-media services in their homes. We are concerned that the rulemaking requested by Petitioners will unnecessarily delay the implementation of the Commission's video dialtone rules, and that amendments to Parts 32, 36, 61, 64 and

provide any substantive information to support the Petition. Just as in the Petition, supporting comments merely repeat the same, tired claims.<sup>12</sup> One such commenter even repeats old allegations raised in telephone company waiver proceedings that were resolved prior to the Commission's video dialtone order.<sup>13</sup> Such allegations have no relevance to the current video dialtone applications. The CSE Foundation is correct in observing that the Commission would be unable to create a set of safeguards stringent enough to satisfy Petitioners.<sup>14</sup> In contrast, many comments opposing the Petition explain in detail why the rules ~~changes suggested in the Petition are unnecessary~~<sup>15</sup>

As discussed in USTA's comments, given the lack of adequate justification, the potential detrimental impact of consumers, and the Commission's finding that current rules are sufficient, the Commission should dismiss the Petition.

Respectfully submitted,

**UNITED STATES TELEPHONE ASSOCIATION**

By

A handwritten signature in cursive script, appearing to read "Linda Kent", is written over a horizontal line.

Martin T. McCue  
General Counsel

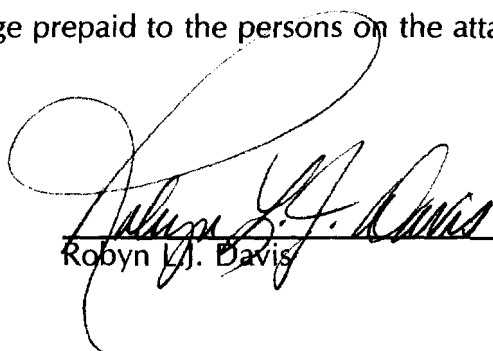
Linda Kent  
Associate General Counsel

900 19th Street, NW, Suite 800  
Washington, D. C. 20006-2105  
(202) 835-3100

June 7, 1993

**CERTIFICATE OF SERVICE**

I, Robyn L.J. Davis, do certify that on June 7, 1993 copies of the foregoing Reply Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



Robyn L.J. Davis

Phillip D. Mink, Esq.  
Citizens for a Sound Economy  
Foundation  
478 L'Enfant Plaza  
Suite 7112

John Columbus  
Jersey City State College  
Department of Media Arts  
203 West Side Avenue  
Jersey City, NJ 07305

James R. Hobson  
Jeffrey O. Moreno  
Donelan, Cleary, Wood &  
Maser, P.C.  
1275 K Street, N.W.



M. Robert Sutherland  
Thompson T. Rawls II  
BellSouth  
4300 Southern Bell Center  
675 West Peachtree Street, NE  
Atlanta, GA 30375

James T. Hannon  
U S WEST, Inc.  
1020 19th Street, NW  
Suite 700  
Washington, DC 20036

David Cosson  
L. Marie Guillory  
National Telephone Coop. Assn.  
2626 Pennsylvania Avenue, NW  
Washington, DC 20037

Richard McKenna, HQE03J36  
GTE  
P.O. Box 152092  
Irving, TX 75015

Gail L. Polivy  
GTE  
1850 M Street, NW  
Suite 1200  
Washington, DC 20036

William F. Adler  
Pacific Telesis  
1275 Pennsylvania Avenue, NW  
Suite 400  
Washington, DC 20004

International Transcription Service  
2100 M Street, NW  
Suite 140  
Washington, DC 20036